

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Murgo	Team: Squad #2	CCRB Case #: 201905648	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/26/2019 9:30 PM	Location of Incident: The 23rd Precinct stationhouse	Precinct: 23	18 Mo. SOL 12/26/2020	EO SOL 8/12/2021	
Date/Time CV Reported Thu, 06/27/2019 3:00 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/27/2019 3:00 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Sheldon Elliott	21027	958550	023 PCT
2. POM Jesse Zalewski	16876	958193	023 PCT
3. LT Javier Familia	00000	932618	023 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Andre Arias	01089	937996	M SVS
2. CPT Jose Taveras	00000	943861	023 PCT
3. LT Lawrence Wang	00000	948283	023 PCT
4. POM Steve Sanchez	13400	966833	023 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Javier Familia	Abuse: Lieutenant Javier Familia refused to provide his name to § 87(2)(b)	
B.LT Javier Familia	Abuse: Lieutenant Javier Familia failed to provide § 87(2)(b) with a business card.	
C.POM Sheldon Elliott	Abuse: Police Officer Sheldon Elliott refused to provide his name to § 87(2)(b)	
D.POM Sheldon Elliott	Abuse: Police Officer Sheldon Elliott refused to provide his shield number to § 87(2)(b)	
E.POM Sheldon Elliott	Abuse: Police Officer Sheldon Elliott failed to provide § 87(2)(b) with a business card.	
F.POM Jesse Zalewski	Abuse: Police Officer Jesse Zalewski refused to provide his name to § 87(2)(b)	
G.POM Jesse Zalewski	Abuse: Police Officer Jesse Zalewski refused to provide his shield number to § 87(2)(b)	
H.POM Jesse Zalewski	Abuse: Police Officer Jesse Zalewski failed to provide § 87(2)(b) with a business card.	

## Case Summary

On June 27, 2019, § 87(2)(b) filed this complaint with the CCRB over the phone.

On June 26, 2019, at approximately 9:30 p.m., § 87(2)(b) received a phone call from a friend, who informed her that her son, § 87(2)(b) had been arrested. § 87(2)(b) went with her husband, § 87(2)(b) to East 107<sup>th</sup> Street and Madison Avenue in Manhattan, where they observed § 87(2)(b) being placed into a police vehicle. Also on scene were Lieutenant Javier Familia, Police Officer Sheldon Elliott and Police Officer Jesse Zalewski of the 23<sup>rd</sup> Precinct. § 87(2)(b) asked what was going on and was told to go to the 23<sup>rd</sup> Precinct stationhouse.

§ 87(2)(b) and § 87(2)(b)'s girlfriend § 87(2)(b) went to the 23<sup>rd</sup> Precinct stationhouse. Once inside the stationhouse, § 87(2)(b) allegedly asked Lieutenant Familia for his name, shield number and a business card, none of which he provided (**Allegations A and B—Abuse of Authority—Refusal to provide name and Failure to provide RTKA card—§ 87(2)(g)**). She then asked Police Officer Elliott and Police Officer Zalewski for the same information, and they did not provide it (**Allegations C, D and E—Abuse of Authority—Refusal to provide name, Refusal to provide shield number and Failure to provide RTKA card—§ 87(2)(g)**). **Allegations F, G and H—Abuse of Authority—Refusal to provide name, Refusal to provide shield number and Failure to provide RTKA card—§ 87(2)(g)** § 87(2)(b) then left the stationhouse.

Body-worn camera (BWC) footage was obtained in the course of the investigation. It is located in IAs #68 to 73 (Board Review 01-06) and is summarized in IA #87 (Board Review 07). The BWC footage captured the arrest of § 87(2)(b) and the processing of his arrest and was not relevant to the allegations in this case. § 87(2)(b) also provided footage of the scene of the arrest, which is located in IAs #22 and 23 (Board Review 08 and 09) and summarized in IA #35 (Board Review 10). Footage was also obtained from the 23<sup>rd</sup> Precinct stationhouse. It is located in IA #45 (Board Review 11) and summarized in IA #88 (Board Review 12).

## Findings and Recommendations

**Allegation (A) – Abuse of Authority: Lieutenant Javier Familia refused to provide his name to § 87(2)(b)**

**Allegation (B) – Abuse of Authority: Lieutenant Javier Familia failed to provide § 87(2)(b) with a business card.**

**Allegation (C) – Abuse of Authority: Police Officer Sheldon Elliott refused to provide his name to § 87(2)(b)**

**Allegation (D) – Abuse of Authority: Police Officer Sheldon Elliott refused to provide his shield number to § 87(2)(b)**

**Allegation (E) – Abuse of Authority: Police Officer Sheldon Elliott failed to provide § 87(2)(b) with a business card.**

**Allegation (F) – Abuse of Authority: Police Officer Jesse Zalewski refused to provide his name to § 87(2)(b)**

**Allegation (G) – Abuse of Authority: Police Officer Jesse Zalewski refused to provide his shield number to § 87(2)(b).**

**Allegation (H) – Abuse of Authority: Police Officer Jesse Zalewski failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) was interviewed at the CCRB on July 1, 2019 (Board Review 13). § 87(2)(b) provided a telephone statement on July 18, 2019 (Board Review 14). § 87(2)(b) provided a telephone statement on September 3, 2019 (Board Review 15). § 87(2)(b) provided a telephone statement on September 4, 2019 (Board Review 16) and was interviewed at the CCRB on September 18, 2019 (Board Review 17). Lieutenant Familia was interviewed at the CCRB on October 17, 2019 (Board Review 18). Police Officer Elliott was interviewed at the CCRB on October 23, 2019 (Board Review 19). Police Officer Zalewski was interviewed at the CCRB on December 20, 2019 (Board Review 20).

§ 87(2)(b) testified that she received a call from a friend informing her that § 87(2)(b) was being arrested, and then immediately went to the scene with § 87(2)(b). They asked what was going on and were told to go to the 23<sup>rd</sup> Precinct stationhouse. § 87(2)(b) and § 87(2)(b) went to the 23<sup>rd</sup> Precinct stationhouse and stood in the civilian waiting area. § 87(2)(b) first spoke with Lieutenant Familia, and he informed her that § 87(2)(b) had been arrested because he had an I-Card issued for him. § 87(2)(b) asked Lieutenant Familia for his name, shield number and business card, and he walked away without providing this information. § 87(2)(b) remained in the civilian waiting area and spoke with Police Officer Elliott and Police Officer Zalewski at various points. She asked both of them for their names, shield numbers and business cards, and neither officer provided any of this information.

§ 87(2)(b) stated in her telephone statement that at the 23<sup>rd</sup> Precinct stationhouse, she first observed § 87(2)(b) speak with Police Officer Zalewski, whom she asked what § 87(2)(b) had been arrested for. § 87(2)(b) then spoke with Lieutenant Familia. She asked him for his shield number, and he responded that he did not have one. She then asked him for his name, and he provided it. § 87(2)(b) did not recall whether § 87(2)(b) asked the other officers for their shield numbers.

§ 87(2)(b) stated that he did not hear § 87(2)(b) ask Lieutenant Familia, Police Officer Elliott or Police Officer Zalewski for their names, shield numbers or business cards.

Lieutenant Familia testified that he recalled speaking to § 87(2)(b) at the 23<sup>rd</sup> Precinct stationhouse but did not recall that § 87(2)(b) was present. He did not recognize her from a photograph taken of her at the CCRB. He stated that none of the civilians he spoke to at the stationhouse regarding § 87(2)(b)'s arrest asked for his name, shield number or business card. He did not see Police Officer Elliott or Police Officer Zalewski.

Police Officer Elliott testified that he recalled speaking to § 87(2)(b) at the 23<sup>rd</sup> Precinct stationhouse. He introduced himself as “Officer Elliott” and asked her if she had any questions for him. She stated that officers had been harassing § 87(2)(b) for a while and claimed she had spoken to Police Officer Elliott on a prior occasion, which Police

Officer Elliott did not believe to be true. § 87(2)(b) did not request Police Officer Elliott's name, shield number or business card at any point during this conversation. Police Officer Elliott had no knowledge of § 87(2)(b) requesting this information from Lieutenant Familia or Police Officer Zalewski.

Police Officer Zalewski testified that he was in the rear of the 23<sup>rd</sup> Precinct stationhouse when § 87(2)(b) and § 87(2)(b) arrived. When he came out and joined their conversation with Police Officer Elliott and a superior officer, possibly Captain Taveras, he provided his name and shield number. Police Officer Elliott provided his name, and Police Officer Zalewski believed that Captain Taveras identified himself, as well. Police Officer Zalewski never refused to provide his name or shield number. § 87(2)(b) did not request business cards from Police Officer Zalewski or any other officers.

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is § 87(2)(b)'s second complaint with the CCRB.
  - § 87(2)(b)
- Lieutenant Javier Familia has been the subject of 9 additional allegations in 4 other cases, none of which were substantiated. § 87(2)(g).
- Police Officer Sheldon Elliott has been the subject of 10 additional allegations in 7 other cases, none of which were substantiated. § 87(2)(g).
- Police Officer Jesse Zalewski has been the subject of 10 additional allegations in 3 other cases, none of which were substantiated. § 87(2)(g).

### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- A request to the New York City Comptroller for any and all Notices of Claim filed in regard to this incident was submitted on December 23, 2019. As of that date, no Notices of Claim were filed for this incident (Board Review 22).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date